

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ZACHARY GIAMBALVO, JOHN MOUGIOS,
SHANE MASHKOW, KEVIN MCLAUGHLIN,
MICHAEL MCGREGOR, FRANK MELLONI,
and RENAISSANCE FIREARMS INSTRUCTION,
INC., and all similarly situated individuals,

Plaintiffs,

22 Civ. 04778 (GRB)(ST)

-against-

**DECLARATION OF
JOHN MOUGIOS**

SUFFOLK COUNTY, New York,
Police Commissioner RODNEY HARRISON,
in his Official Capacity, MICHAEL
KOMOROWSKI, Individually, ERIC BOWEN,
Individually, WILLIAM SCRIMA, Individually,
WILLIAM WALSH, Individually, THOMAS
CARPENTER, Individually, JOHN DOES
1-5, Individually and JANE DOES 1-5,
Individually, Acting Superintendent of the New York
State Police STEVEN NIGRELLI, in his Official
Capacity,

Defendants.

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JOHN MOUGIOS, declares pursuant to 28 U.S.C. § 1746 that:

1. I am a plaintiff in the above-captioned matter. I make this Declaration of my own personal knowledge and if called as a witness, I could and would testify competently to the truth of the matters set forth herein. I submit this Declaration in support of Plaintiffs' application for an injunction pending the appeal of the Court's February 14, 2023 decision denying our motion for an injunction and to supplement my Declaration submitted in support thereof dated December 2, 2022. I am a resident of Suffolk County, New York and I have no prohibitions or disqualifications to the lawful purchase, receipt, possession, or ownership of firearms.

2. I have never been convicted of any Penal Law offense – criminal or non-criminal, and I do not engage in "illicit drug use."

3. Two Penal Law charges (involving allegations of non-criminal violations) from between 10 and 18 years ago, respectively, and were Dismissed and “Terminated in Favor of the Accused” pursuant to CPL 160.50 and thereafter SEALED by the respective local courts and remain under seal. As for the third allegation, the District Attorney’s Office Declined to Prosecute the charge. [ECF No. 35-2, Exhibit B, which was filed under SEAL].

4. No unsealing Order has been applied for, or issued, and the dispositions were only made available to the Licensing Bureau of the SCPD as the “agency with responsibility for the issuance of licenses to possess guns.” See, CPL 160.50.

5. Nothing in my past disqualifies me from exercising any and all rights protected by the scope of the Second and Fourteenth Amendments.

6. I have possessed long guns – rifles and shotguns - for years. Each long gun that I own was purchased through a federal firearms licensee (FFL/gun store) after completing ATF Form 4473 and undergoing and passing a federal background check through the NICS (National Instant Criminal Background Check System).

7. My right to possess, purchase, carry, transfer, and receive any and all weapons in common use, for the purpose of self-defense, is unquestionably intact.

8. As noted in my prior Declaration, I submitted to New York’s requirement that I obtain a handgun license from the Suffolk County Police Department Licensing Bureau to lawfully possess, purchase, and/or carry a handgun, and commenced the licensing process in July 2021 by submitting a completed Applicant Questionnaire and \$10 fee to SCPD.

9. The Applicant Questionnaire required that I provide four (4) character references who can attest to my good moral character, which I provided on the completed and submitted Applicant Questionnaire. [ECF No. 35-2, Exhibit B, which was filed under SEAL]. While I

continue to object to the character reference requirements, including those required under Penal Law § 400.00(o), until the Complaint in this action was filed SCPD had no notice that I would be objecting to their enforcement of the statute, but still unconstitutionally delayed the licensing process for years.

10. Approximately 18 months later, and in January 2023, my file was finally assigned to an Investigator and I was called to the Licensing Bureau for an interview, fingerprinting, and to be photographed. I went to the Licensing Bureau, was fingerprinted and photographed, but not interviewed. I was informed by SCPD staff that, because I was suing Suffolk County in this case they could not talk to me.

11. At my appointment, I was also provided with the New York State PPB-3 pistol/revolver application to take home and complete. I filled out the PPB-3 and submitted the form to the Licensing Bureau on or about February 8, 2023, along with the required fee.

12. Under SCPD policy and procedure, no decision will be made on my application for another 6 months.

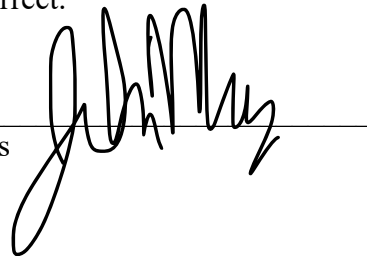
13. As I noted in my prior Declaration, I have served my country and received an Honorable Discharge after my 6 years in the New York Army National Guard where I was assigned to Bravo Company, 1/69th Infantry Division.

14. Protecting myself with a handgun is a guaranteed individual right of mine. SCPD's licensing delays are unconstitutional and should be enjoined.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: February 16, 2023

John Mougios

A handwritten signature in black ink, appearing to read 'John Mougios', is written over a horizontal line.